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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 JUSTIN L. BROSSARD,

10 Plaintiff,

11 v.

12 MICHAEL J. ASTRUE,
Commissioner of Social Security,

13 Defendant.
14

CASE NO. C09-5072BHS

MINUTE ORDER

15 NOW, on this 6th day of January, 2010, the Court directs the Clerk to enter the
16 following Minute Order:

17 On December 10, 2009, Plaintiff moved the Court to award attorney fees pursuant
18 to the Equal Access to Justice Act (“EAJA”). Dkt. 23. Although Defendant does not
19 oppose the merits of Plaintiff’s request, Defendant does oppose such award on grounds
20 that the motion was untimely – one day late. Dkt. 24. Plaintiff, in reply, urges the Court to
21 find that the fees should be awarded notwithstanding the untimeliness of his motion. *See*
22 Dkts. 28 and 29 (asserting several legal theories on which the Court could rule in
23 Plaintiff’s favor). Plaintiff’s attorney also filed a declaration claiming that his untimely
24 filing was due to excusable neglect, which he argues is grounds for awarding the EAJA
25 fees. Dkt. 29, Attachment 1, Declaration of Eitan K. Yanich.

26 Because the parties disagree as to whether these fees should be awarded, the Court
27 refers the motion for fees (Dkt. 23) and the related motions (Dkts. 27 and 29) to the
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1 Honorable J. Richard Creatura, United States Magistrate Judge, for a report and
2 recommendation on the matter.

3 The foregoing Minute Order was authorized by the Honorable BENJAMIN H.
4 SETTLE, United States District Judge.

5 /s/ Trish Graham
6 Trish Graham
7 Judicial Assistant
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